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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,050	09/27/2001	Stephan Hauser	2001-6010-RA	5479

30184 7590 03/03/2004

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EXAMINER

KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/965,050

Applicant(s)

HOUSER, STEPHAN

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-22, 24-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Claims 1-11 have been cancelled in paper no. 13. New claims 11-29 have been added by the applicant and are examined below.

#### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Claim number 23 is missing. Correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-17, 21, 22, 24-26 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 553,305 to Fordyce.

Regarding claim 11, Fordyce discloses a concrete wall panel (line 16) composed of two wire mesh reinforcing insert screens (fig. 10), wherein each mesh screen has

different mesh widths in order to allow the concrete to pass through one layer and be secured by the lower layer.

Regarding claim 12, Fordyce discloses the mesh as being metal wire (fig. 10).

Regarding claim 13, Fordyce discloses the concrete as establishing the stiffness of the panel.

Regarding claims 14 and 29, Fordyce discloses the panel as having an inherent weight dependant upon the thickness of the panel (lines 118-123).

Regarding claim 15, Fordyce discloses the mesh layers as being interconnected (fig. 2: B & b).

Regarding claim 16, Fordyce discloses elements for interconnecting the meshes together (fig. 10: see wires looping together component b to component B at the peaks and valleys of B).

Regarding claim 17, Fordyce discloses adjusting the thickness of the member by varying the mesh wires (fig. 8).

Regarding claim 21, Fordyce discloses different types of mesh (lines 81-83).

Regarding claim 22, Fordyce discloses different shapes of mesh (fig. 10).

Claim 24 is rejected for reasons cited in the rejections of claims 21 and 22.

Regarding claim 25, Fordyce discloses the mesh as being prestressed (fig. 1: B, b, A3).

Regarding claim 26, Fordyce discloses the use of concrete (line 16).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-20 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 553,305 to Fordyce.

Regarding claim 18, Fordyce discloses the basic claim structure of the instant application but does not disclose specific dimensions of thickness. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claims 19 and 20, Fordyce discloses the basic claim structure of the instant application but does not disclose specific dimensions of the wire mesh. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 28, Fordyce discloses the claimed invention of two layers of mesh but does not claim three layers of mesh. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add an extra layer of mesh to increase the strength of the panel, since it has been held that a mere

duplication of the essential working parts of a device involves only routine skill in the art.  
*St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 553,305 to Fordyce in view of U.S. Patent No. 5,251,414 to Duke.

Regarding claim 27, Fordyce discloses the mesh as made from metal but not from both metal and plastic. Duke discloses panels having mesh wires made from plastic (column 4, lines 17-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fordyce by using plastic for the corrugated mesh in order to ease and speed the shaping of the mesh.

### ***Response to Arguments***

Applicant's arguments filed 10/17/03 have been fully considered but they are not persuasive. Applicant argues the prior art (Fordyce) uses plaster, not concrete. However, Fordyce discloses the use of concrete as stated in the above rejection. Applicant argues that the prior art does not achieve a sieving effect. However, the prior art states that the material is poured through a large mesh to a small mesh, thus achieving a sieving effect.

**Conclusion**


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK *[initials]*  
2/27/04

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600